

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

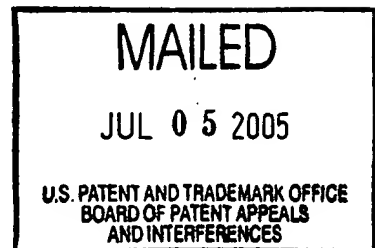
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN A. RUSHING

Appeal No. 2005-0815
Application No. 09/433,761

ON BRIEF



Before BARRETT, GROSS, and BLANKENSHIP, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-5.

We affirm-in-part.

BACKGROUND

The invention relates to a plurality of strands or strings of miniature lights branching off a power supply cord, suitable for arrangement in a radial array for placement on, for example, a patio umbrella. Claim 1 is reproduced below.

1. A diffuse lighting arrangement comprising a main power cord having a plug at one end thereof and incorporating a plurality of identical minimally spaced apart strings of spaced apart miniature lights extending from the power cord.

The examiner relies on the following references:

Lehmann et al. (Lehmann)	3,968,398	Jul. 6, 1976
Adler	6,224,239	May 1, 2001 (filed Apr. 16, 1999)

Claims 1-4 stand rejected under 35 U.S.C. § 102 as being anticipated by Adler.

Claim 5 stands rejected under 35 U.S.C. § 103 as being unpatentable over Adler and Lehmann.

Claim 10 stands allowed. Claims 6-9 are not rejected over prior art. The examiner has withdrawn a rejection of claims 6-9 under 35 U.S.C. § 112, second paragraph.

We refer to the Final Rejection (mailed Nov. 5, 2001) and the Examiner's Answer (mailed Jul. 13, 2004) for a statement of the examiner's position and to the Brief (filed Oct. 7, 2003) and the Reply Brief (filed Sep. 10, 2004) for appellant's position with respect to the claims which stand rejected.

OPINION

Adler describes, as set forth in the Abstract, a decorative light structure having a plurality of lights electrically connected for hanging along a power wire, the lights fixed at vertically spaced intervals inside a case enclosing the lights. In particular, decorative light structure 20 (Figs. 1 and 2) comprises a power wire 19, which may consist of a twisted pair, having a male connector 25 and a female electrical connector 21. Lights 18 are arranged at spaced intervals along the wire 19 in series or parallel within a case 10. Col. 2, ll. 30-35.

Instant claim 1 recites a main power cord, having a plug at one end, incorporating a plurality of minimally spaced apart strings of spaced apart miniature lights extending from the power cord. The claim thus requires at least a main power cord, with a plug at one end, and two minimally spaced apart strings that extend from the power cord, with each string having two spaced apart miniature lights.

Claim 1 does not exclude a case enclosing the lights, and thus does not exclude case 10 disclosed by Adler. Moreover, claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See In re Morris, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997); In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

We find the broad terms of claim 1 to be met by consideration of the horizontal extent of power wire 19 (as shown in Fig. 2) of Adler as the main power cord, with the vertical portions of power wire 19 that depend from the main portion of the wire as the minimally spaced apart strings having spaced apart miniature lights (best seen in Fig. 1). Power wire 19 in Adler comprises both the main power cord and the strings as claimed. We consider it of no moment that Adler does not refer to portions of power wire 19 as recited in the instant claims. For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference. However, this is not an “ipsissimis verbis” test. In re Bond, 910 F.2d 831, 832, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990).

Our interpretation of claim 1 does not rest on consideration of dependent claim 4, but is buttressed by a reading of the language that further limits the subject matter of claim 1. Claim 4 requires that each of the light strings electrically connects to the power supply cord in parallel. The antecedent for the “power supply cord” must be the “main power cord” of claim 1. Independent claim 1 must reasonably be interpreted as including the other type of electrical connection between a main power cord and strings -- i.e., a series connection -- and thus includes within its scope a main power cord that is connected in series with the strings extending from the power cord. The depending strings are connected in series with the main power cord in Adler at least in the disclosed alternative of the lights being arranged along the strings in series.

The spaced apart holders for the lights (Adler Fig. 1) in cases 10 ensure that the strings of lights are substantially identical in length, as recited by dependent claim 2. Adler expressly discloses an electrical series connection for the lights, in accord with dependent claim 3.

We therefore sustain the rejection of claims 1 through 3 under 35 U.S.C. § 102 as being anticipated by Adler.

We do not sustain the rejection of claim 4 as being anticipated by Adler. Although the reference teaches parallel connection of the lights, the reference does not teach parallel connection of the light strings to the main power cord.

With respect to the rejection of claim 5 under 35 U.S.C. § 103, we consider the examiner's finding of a motivation to combine Adler and Lehmann to be supported by the evidence. Lehmann in column 1 expressly sets forth the need for a circuit protection device in series-connected decorative lamps.

We have considered all of appellant's arguments in the briefs. However, we are not persuaded that the examiner erred in the rejection of claims 1 through 3 and 5.

CONCLUSION

The rejection of claims 1-3 under 35 U.S.C. § 102 as being anticipated by Adler is affirmed. The rejection of claim 4 under 35 U.S.C. § 102 as being anticipated by

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Adler is reversed. The rejection of claim 5 under 35 U.S.C. § 103 as being unpatentable over Adler and Lehmann is affirmed.


The examiner's decision to reject claims 1-5 is thus affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a). See 37 CFR § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

Lee E. Barrett
LEE E. BARRETT
Administrative Patent Judge


ANITA PELLMAN GROSS
Administrative Patent Judge


HOWARD B. BLANKENSHIP
Administrative Patent Judge

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